January 22, 2003

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

MDR Tracking #:   M2-03-0528-01
IRO #:   5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to ___ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Medical Doctor with a specialty and board certification in Orthopedic Surgery. The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to ___ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

___ is now 61-years-old and she has a longstanding lower back problem.
This lady originally injured her lower back in ___ when she was lifting some boxes.
___ who operated on her back in May 1993 treated her. He did a Bill procedure at the L5 level and a fusion at the L5/S1 level. This was done because of grade 1 spondylolisthesis, according to the record. At the time of surgery, a bone stimulator was implanted in her spine to ensure that a fusion would take place. After surgery, the record states that she did not get any relief from her pain, which was low back and bilateral leg pain. She continued to have trouble with her back. The bone stimulator was surgically removed from her back and she continued to have problems. She had a second surgical operation on May 11, 1995 by ___. This was an L5/S1 disc removal with foraminotomy and he explored her

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fusion at the L5/S1 level on both sides. The record indicates that the fusion was found to be solid on both sides at the L5/S1 level.
She still did not get any real significant relief of pain after this second surgical procedure. She continued to have low back and bilateral leg pain.

The patient has changed doctors and is now seeing another spine surgeon, ___. He has treated her conservatively and she has failed all conservative treatment. She is felt to be a candidate for another surgical procedure on her back because of the failure to relieve her symptoms without surgery. In order to determine with more certainty which levels in her back need surgical attention, a provocative discogram has been requested by ___. However, the insurance company and the medical advisors of the insurance company have advised that this discogram is not indicated.

REQUESTED SERVICE

A lumbar discogram with CT scan has been requested by ___.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

The records support the fact that ___ has failed conservative treatment. She is having intractable low back and leg pain for which non-operative treatment has not helped. She has already had a fusion of the L5/S1 level along with a Gill procedure and this has not relieved her symptoms. She has been surgically explored on both sides of her fusion and apparently the fusion is solid at L5/S1. Now, she is facing another surgical operation and in order to determine what level should be surgically fused, the provocative discogram with CT scan has been requested. The surgeon wants to know as much information as possible to help him decide on the levels of fusion. Hopefully, the discogram would reveal fairly normal findings at the L3/4 level and perhaps only a one-level procedure would be needed when the surgery is done. The reviewer agrees with the proposed discogram with CT scan that has been requested, as it would help make the decision regarding what levels to do the fusion. The procedure is indicated as a preoperative investigative procedure.

___ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ___ has made no determinations regarding benefits available under the injured employee's policy.

As an officer of ___, I certify that there is no known conflict between the reviewer, ___ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

___ is forwarding by mail and, in the case of time sensitive matters by facsimile, a copy of this finding to the treating doctor, payor and/or URA, patient and the TWCC.

Sincerely,

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

In the case of prospective *spinal surgery* decision, a request for a hearing must be made in writing and it must be received by the TWCC Chief Clerk of Proceedings within 10 days of your receipt of this decision. (20 Tex. Admin. Code 142.5(c)).

In the case of other *prospective (preauthorization) medical necessity* disputes a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision (28 Tex. Admin. Code 148.3).

This decision is deemed received by you 5 (five) days after it was mailed (28 Tex. Admin. Code 102.4(h) or 102.5(d). A request for a hearing should be sent to: Chief Clerk of Proceedings, Texas Worker's Compensation Commission, P.O. Box 40669, Austin, TX 78704-0012. A copy of this decision should be attached to the request.

The party appealing this decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute, per TWCC rule 133.308(t)(2).